

FINAL DRAFT

Central Valley Project Improvement Act

Title 34, Section 3406(b)(22), Public Law 102-575

INTERIM GUIDELINES

For
Flooding Agricultural Lands for Waterfowl Habitat
And
Central Valley Project Yield Enhancement



An Incentive Program



Fish and Wildlife Service

FINAL DRAFT

October 27, 1995

INTERIM GUIDELINES For Flooding Agricultural Lands for Waterfowl Habitat And Central Valley Project Yield Enhancement An Incentive Program Central Valley Project Improvement Act (Title 34, Section 3406 (b) (22), Public Law 102-575)

INTRODUCTION

The Central Valley of California (Valley) is a major migration and wintering stopover for waterfowl and other migratory birds of the Pacific Flyway. Since the beginning of the twentieth century, wetlands of the Valley have declined to less than 300,000 acres. Approximately two thirds of the remaining wetlands are owned and managed by private landowners. These wetlands combined with the intensively managed public wetlands are unable to fully meet all of the habitat requirements for the waterfowl that utilize the Valley. It has been recognized by Federal, State and conservation organizations for many years that the Valley's extensive agricultural lands can be used in conjunction with managed wetlands to help meet Valley waterfowl biological needs by adding to the habitat available for foraging and reproduction.

The Central Valley Habitat Joint Venture (Joint Venture) is comprised of various Federal and State agencies and private organizations to further the goals and objectives of the North American Waterfowl Management Plan. The Joint Venture developed an Implementation Plan in February 1990 that identified as one of it's objectives, the enhancement of 443,000 acres of agricultural lands for the benefit of waterfowl. The

Plan included existing and proposed programs, and acreage goals for eight of the nine drainage basins of the Valley. The eight basins included in the Joint Venture Plan are: Butte Basin, Colusa Basin, Sutter Basin, Yolo Basin, American Basin, Delta, San Joaquin Basin, and Tulare Basin (see Figure 1 Drainage Basins within the Central Valley of California).

In 1992, a research/demonstration program that provided incentives for flooding rice stubble after harvest was funded by the California Department of Fish and Game (Department), in cooperation with the California Waterfowl Association. This was followed by another research/demonstration program funded by the Bureau of Reclamation (Reclamation) that is investigating the agronomic benefits of fall and winter flooding of harvested rice lands as an alternative to burning. The potential for using this type of land to provide off stream storage, and additional food resources for wintering waterfowl and migratory birds are included in these investigations.. This program was initiated in federal Fiscal Year 1993 and will be concluded in federal Fiscal Year 1996.

The Central Valley Project Improvement Act (CVPIA) was passed by the Congress and signed into law on October 30, 1992. The CVPIA's purposes include, "the protection, restoration, and enhancement of fish, wildlife, and associated habitats in the Central Valley and Trinity River Basins of California; by addressing the impacts of the Central Valley Project ." Section 3406 of the CVPIA provides for fish, wildlife, and habitat restoration. Section 3406(b)(22) authorizes and directs the Secretary of the Interior to "provide such incentives as the Secretary determines to be appropriate or necessary, consistent with the goals and objectives of this title, to encourage farmers to

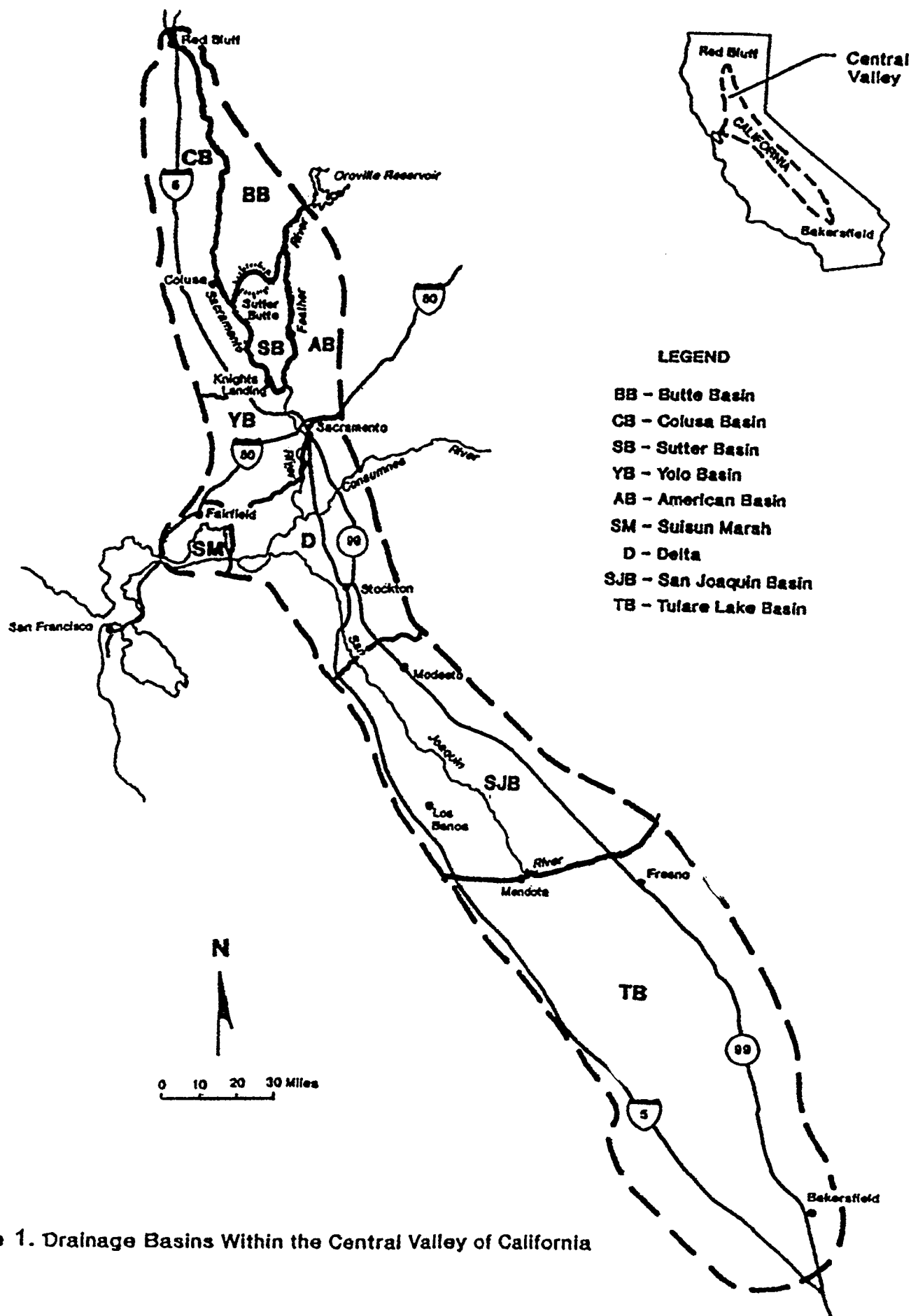


Figure 1. Drainage Basins Within the Central Valley of California

participate in a program (Program), which the Secretary shall develop, under which such farmers will keep fields flooded during appropriate time periods for the purposes of waterfowl habitat creation and maintenance and Central Valley Project yield enhancement .” This Program will be administered by the U.S. Fish and Wildlife Service (Service) in cooperation with Reclamation. The CVPIA limits the Program to not more than \$2 million per year and requires that the Program will terminate by the year 2002.

Therefore these interim guidelines set forth the criteria and process that will be used to administer the Program until formal rules and regulations, if deemed necessary, are promulgated.

PURPOSE:

The purpose of the Program is to encourage agricultural landowners to keep fields flooded during appropriate time periods for the purpose of waterfowl habitat creation and maintenance and for Central Valley Project yield enhancement, consistent with the overall objectives of Section 3406 of the CVPIA. This will be accomplished by providing incentives to landowners who are selected to participate in the Program.

DEFINITIONS:

Agricultural fields - those fields that are being or have been used within the past five years, to produce a harvested crop through application of irrigation water.

Small Grains - includes, but are not limited to rice, oats, barley, wheat, corn, milo, soybeans, safflower, and sun flowers.

Waterfowl - refers to all species of ducks, geese and swans that frequent the Pacific Flyway.

Incentives - an action whereby a party agrees that for appropriate compensation they will incorporate a management action(s) (flood agricultural fields for an agreed upon appropriate time period) that he/she would not normally do without such compensation. Compensation may include, but is not limited to, cost shared cash payments; water conveyance and distribution credits; sharing of pumping costs, including the cost of pumping ground water; credits toward CVP contractual payment obligations, including tiered water pricing waivers authorized under section 3405(d) of the CVPIA.

Central Valley Project (CVP) Yield - the delivery capability of the Central Valley Project during the 1928-1934 drought period after fishery, water quality, and other flow and operational requirements imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing at the time of enactment of this title (Title 34, Public Law 102-575) have been met.

APPLICABILITY

These interim guidelines and criteria have been developed to allow for the immediate implementation of the Program authorized by Section 3406(b)(22); and will be effective immediately, whereupon proposals from agricultural landowners, irrigation districts, and Resource Conservation Districts will be accepted. The holder of a CVP water contract will pass incentives through to the agricultural landowners participating in the Program, less reasonable contractor's costs, if any. It is the desire of the Service and Reclamation to encourage long-term practices on the part of agricultural landowners without government incentives, that benefit the waterfowl resource, CVP water supply, and agricultural interests that go beyond the term of this Program, which will terminate by the year 2002. This Program, pursuant to these interim criteria and guidelines, will remain in effect until final rules and regulations for CVPIA are promulgated. However, as the Program proceeds, these criteria and guidelines may have to be revised to insure the purpose of the Program is met.

GUIDELINES

The Program will provide incentives to selected participants in accordance with the following process: Applications will be accepted from agricultural landowners and irrigation districts within CVP water service areas for each of the eight drainage basins of the Valley as described in the Joint Venture Implementation Plan (figure 1). Generally, each application should include the number of acres offered for flooding; the crop to be grown and flooded; the Valley location; the source of the water supply to be utilized;

and the proposed time period, duration, and approximate depth of flooding.

The incentives provided will vary each year depending upon the water year type and reservoir storage as determined by Reclamation. The CVP operations criteria utilize five water years designations; wet, above normal, dry, critical, and extreme critical. There are four reservoir storage levels; high, high middle, low middle, and low. In years in which water supplies and storage are determined to be in the critical or extreme critical and low middle or low respectively, incentives will emphasize groundwater pumping to minimize impacts to fish and other wildlife that especially need in-stream flows during these dry periods.

1. Announcements

Applications will be accepted on a year round basis to accommodate the wide variations in agricultural practices throughout the Valley. An announcement will be made annually following determination of available federal funds for the Program, (The CVPIA limits funding for the Program to not more than \$2,000,000 annually). The announcement will identify the total amount of available funding for the year, Reclamation water year type, reservoir storage level, general waterfowl habitat acreage goals for the period covered, and instructions for those who wish to submit applications. Program announcements will be mailed to agricultural landowners, water districts, agricultural and conservation organizations, local and State government agencies, and other parties who request copies. The announcements will also be published in Farm Bureau and Water District newsletters, and/or public newspapers.

2. Applications

Those interested in participating in the Program will need to submit an application responsive to the criteria listed in these guidelines. The purpose of the application will be to 1) express interest in participating in the Program, and 2) provide sufficient information for a determination of eligibility of the applicant to be made.

Applications should include the following information:

- A written description of the geographic location of the agricultural fields being proposed for flooding, depicted on an attached map.
- The crop being grown on the field and recent crop history of the field.
- Water supply to be utilized (water rights, district supply, ground water, point of diversion and source, etc.).
- Acreage proposed for flooding.
- Estimated quantity of water required
- Applicants proposed dates for flood-up and drainage.

3. Review

The Service and Reclamation will establish a review team to evaluate all applications for eligibility based on their potential to meet the purpose of the Program. Applicants will be notified of the status of their applications within 60 days after the application is received by the Service.

4. Selection

The review team will consider all the data and information provided by the applicant, appropriate fish and wildlife resource data for the appropriate geographic area, and potential for CVP water supply enhancement. Additional information on water supply, cropping history, acreage, fish and wildlife, etc., may be requested and/or obtained from the applicant, water district, and/or appropriate Federal and State data bases. Applications, determined to meet the eligibility criteria will also be evaluated and ranked by the review team. The relative weight of the evaluation criteria may vary from year to year, depending on the identified current needs and objectives of the Program.

The following is a list of the rating criteria that will be used to evaluate all applications:

- a. Location and acreage of lands proposed for the Program.
- b. Time period and duration of flooding;
 - Fall/Winter,
 - Waterfowl breeding season (March through July).
- c. Agricultural history of proposed lands to include:
 - types of crops to be grown in fields proposed for flooding.
- d. Land use anticipated for adjacent fields during period of participation.

e. Water Supply to be used for flooding:

- property's water district allocation priority if proposing surface water,
- point of diversion or source of water.
- depth of flooding intended on fields and estimated amount of water to be used.
- return flow/drainage facilities available for dewatering.
- limitations, if any, (time and place of use, conveyance, water rights, etc).
- timing of flood-up and drainage operations.

f. Waterfowl habitat potential relevant to:

- acreage proposed.
- location relative to other existing managed habitat.

g. Benefits and impacts to other fish and wildlife species:

- shorebirds, marsh and water birds, raptors, etc.
- fisheries (flow changes, reservoir carryover, etc.)

h. Endangered Species considerations:

- Possible impacts (adverse or beneficial).
- Mitigation possibilities.

i. CVP water supply enhancement:

- Ground water recharge/banking.
- Return flow potential.

5. Notification

Those applicants selected from a particular announcement period will be notified of their selection to participate in the Program and will receive a packet that includes an agreement to participate in the Program for a minimum of one year, instructions, any needed additional information, and required response dates. Applicants not selected to participate will also be notified and automatically placed on the mailing list for the following year (unless otherwise requested).

6. Monitoring and Compliance

Participants in the Program, as a part of the agreement and in a manner mutually acceptable, will grant limited access to their property for purposes of monitoring, evaluation, and compliance for the term of the agreement. Information compiled as a result of monitoring the Program will be included in an annual report that summarizes water use, participating acreage, locations, fish and wildlife benefits, and water supply enhancement. This report will be provided to the Comprehensive Assessment and Monitoring Program for all CVPIA implementation programs.

PROGRAM CRITERIA:

1. Area of consideration: The authorization for the Program ties waterfowl habitat creation and maintenance activities and CVP yield enhancement to lands within the CVP Service area. Section 3406 (b), authorizes this program and directs the Secretary to perform designated activities related to the operations of the CVP. After careful review of the area of applicability, it has been determined that incentives will be available only to agricultural landowners in the Valley within the Central Valley Project Service Area.

2. Acreage Limitations: Incentives will be provided to Program participants that agree to flood fields for one or both of the following purposes: For the Fall/Winter period, not less than 80 acres of agricultural fields have been determined as the minimum necessary to adequately meet habitat needs. The Spring/Summer breeding season will require a minimum of three acres.

3. Agricultural crops. Agricultural fields that produce small grain crops, and seed crops will receive a high priority for incentives, as these crops are recognized as having high food value for waterfowl. Other agricultural crops such as alfalfa, and annual row crops will also receive consideration based on their geographic location, anticipated waterfowl benefits, and CVP water supply enhancement opportunities.

4. Relationship to Managed Wetlands: Agricultural fields located close to Federal, State, and privately owned and managed wetlands will receive a higher ranking in the application review process than those that are not.

5. Waterfowl Use History: ALL lands, including those that are not located in close proximity to existing managed wetlands, that have a history of intensive waterfowl use will also receive high consideration during the application review process. The waterfowl use history will be based upon past population surveys documented by the Service, Department, University research, Ducks Unlimited, California Waterfowl Association, and/or the Audubon Society.

6. Water Levels: The recommended water depth for each field will be based on the geographic location of the lands, source of water, and primary habitat benefits desired. The preferred range of water depth of fields flooded for the Fall/Winter period is generally four to twelve inches. The preferred average water depth for breeding habitat from February through July is 18 inches. Flooding of fields will entail the saturation of the soil profile with surface water and coverage maintained at the agreed upon depth by natural rainfall and/or supplemental water application for the term of the agreement.

7. Water Source. Anyone wishing to participate in the Program will be required to identify the source of the water to be used (water rights, ground water, river/stream diversion, reservoir storage, surface return flows, or combinations, etc.). In addition if the water source is a stream or slough diversion utilized by anadromous fish, the application must identify if the diversion is operated or screened to reduce entrainment of anadronous fish. The applicant must provide evidence to document the adequacy of the screen from the operator of the diversion (water district, owner, etc.). If the diversion is not screened the application must include a detail

of planned operations such as pumping only during seasons when anadromous fish are not present; day time pumping only; and reducing diversions following storm events; that will not result in entrainment of anadromous fish. The applicant may be required to consult with the Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Game to insure compliance with the Endangered Species Act . Applicants will be provided assistance from the Program Manager to insure adequacy of information and timely processing of any consultations. All applications must contain information that will demonstrate the adequacy and quality of the proposed water supply to insure that the objectives of the Program can be met. The application must also include assurances from the applicant and/or the supplying water district that the water to be used for the program will not reduce water supplies traditionally used for existing managed wetlands. Exhibit 1 to these Guidelines provides an example of an application for the Program.

8. Funding. Federal funding for Program incentives will not to exceed \$2 million per year and will depend upon appropriation by Congress and collections to the Restoration Fund, which is the source of funding for the Program. Funding will be provided on a per acre basis, based upon the geographic area of benefit, the water year type, reservoir storage level, the biological need for habitat distribution, and the Basin of the Valley in which the participating lands are located.

9. Lands That Will Not be Considered. Lands that have been converted from agricultural production to managed wetlands; privately owned, managed and/or native wetlands converted to agricultural production in non-compliance with existing state and federal wetland protection laws and regulations; and lands that are receiving an incentive payment from another governmental agency for similar land use practices that have ancillary benefits to the waterfowl resource.

10. Environmental Compliance. Compliance with the National Environmental Policy Act (NEPA), the Federal Endangered Species Act (ESA), and State of California Endangered Species Act (CESA) will be completed on an overall Program level before implementation of these Interim Guidelines. In addition, site specific environmental compliance may be necessary on an annual basis to assure that the Program is compatible with all environmental regulations, policies, and guidelines.

11. Coordination. The Service and Reclamation will insure that coordination with other agencies and programs is carried out as a component of Program implementation. This will include, but is not limited to: Consultation with appropriate entities on ground water supplies used for the Program; State and County agricultural burning permit programs; and water quality parameters for applied and return flow water supply.

EXHIBIT 1. SAMPLE APPLICATION LETTER

Jerry Mander Ranch

P.O. Box 3006

Willows, CA 95685

May 27, 1999

Program Manager, Waterfowl/Agriculture Incentive Program

U.S. Fish and Wildlife Service

2233 Watt Ave., Suite 275

Sacramento, CA 95825

Dear Sir,

I am writting in response to your April announcement for the Incentive Program to Flood Agricultural Fields for Waterfowl. I own 440 acres of agricultural land in Glenn County located in Section 9, Township 18 North, Range 3 West. My ranch is just west of Interstate 5 across from the Sacramento National Wildlife Refuge and is within the Glenn-Colusa Irrigation District. I have enclosed a map that depicts the location of my ranch and it's relationship to the refuge. I would like to participate in the incentive program for flooding agricultural lands for waterfowl habitat. I propose to flood 320 acres of harvested corn stubble from approximately mid-October of this year to the end of February next year.

EXHIBIT 1 CONTINUED

I plan to utilize a portion of my water supply available from the Glenn-Colusa Irrigation District (GCID) to flood the lands, and can maintain the fields as needed with an irrigation well. I have grown corn and barley on these fields for the past ten years. My adjacent fields have been managed as irrigated pasture and tomatoes for the same time period. The neighboring ranches are primarily rice growers with some row crops.

I will use approximately ____ acre-feet of water to flood the fields to a depth of six inches. The fields have been laser leveled so water control and depth is easy to maintain. The water will be delivered from the CGID system which diverts water from the Sacramento River at Hamilton City. I will de-water the fields beginning March first. I estimate that ____ acre-feet will be drained into Logan Creek. The fields drain east to Logan Creek and then to the 2047 Drain. Enclosed is a letter from the GCID that outlines their operations that comply with the Endangered Species Act and assures that the water supply I will utilize for the program will not reduce water for duck clubs.

I have not flooded any of my fields in the past due to the cost of pumping well water to maintain water depths. I expect that my costs for participating in the program will total about \$_____. The costs include: GCID water costs (\$___/acre); pumping costs and maintainance of my irrigation well (\$___/acre-foot); and labor costs to check and maintain fields (\$___/hour). I would like to utilize the incentive program to determine if flooding of my fields can be a benefit to farm operations and also result in opportunities for additional income.

Exhibit 1 Continued

I am available to answer any questions you may have regarding the flooding of my fields for the ducks and geese. My phone number is 555-0987, or I can be reached at the above address.